



DALLAS | AUSTIN | LOS ANGELES | BATON ROUGE

Encino Plaza	Home Office:
15910 Ventura Boulevard	3102 Oak Lawn Avenue
Suite 1600	Suite 1100
Encino, CA 91436	Dallas TX 75219-4281
800.887.6989	800.222.2766
tel 818.839.2333	tel 214.521.3605
fax 818.986.9698	fax 214.520.1181

January 30, 2014

**VIA ECF AND HAND DELIVERY**

The Honorable Naomi Reice Buchwald  
United States District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: *In re LIBOR-Based Financial Instruments Antitrust Litigation*  
Lead Case No. 1:11-md-02262-NRB

Dear Judge Buchwald:

We are counsel for the Plaintiffs Carl A. Payne and Kenneth Coker in the above-captioned matter (the "Homeowner Action"). Plaintiffs in the Homeowner Action assert claims individually and on behalf of a putative class of homeowners who obtained LIBOR-based adjustable mortgage home loans during the relevant period. As a result of this Court's stay order, none of the Defendants have filed a response to our original complaint, which was filed on December 31, 2012.

In its Memorandum filed May 3, 2013, the Court acknowledged receiving various letters from plaintiffs' counsel, including one from our office, inquiring about the stay that remains in effect. At the time, the Court said that the stay shall remain in place "for now" with respect to cases that raise issues addressed in its March 29, 2013 Memorandum and Order.

We wrote to you again on July 26, 2013, advising the Court that we were prepared to file a first amended complaint in the Homeowner Action consistent with this Court's March 29, 2013 ruling. We requested the Court at the time to lift the stay so that Plaintiffs could file their first amended complaint and the Court could rule on Plaintiffs' pending application for establishment of a separate putative class group and for appointment of interim class counsel for such group. A copy of that letter is attached for the Court's convenience. To our knowledge, the Court has not expressly ruled on that request.

January 30, 2014



Page 2

We are planning on attending the hearing that has been scheduled by the Court for February 4, 2014, during which we understand the Court will be addressing certain matters in other cases in this MDL. We are respectfully requesting that at the conclusion of those proceedings the Court afford us the opportunity to briefly address and seek guidance from the Court with respect to when it anticipates lifting the stay in the Homeowner Class Action.

Thank you for your time and consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Alberstone", with a stylized flourish at the end.

Daniel Alberstone

Encl. July 26, 2013 Letter

cc: All Counsel of Record (via ECF)



DALLAS | AUSTIN | LOS ANGELES | BATON ROUGE

July 26, 2013

Home Office:  
3102 Oak Lawn Avenue  
Suite 1100  
Dallas, TX 75219-4281  
800.222.2766  
tel 214.521.3605  
fax 214.520.1181

Encino Plaza  
15910 Ventura Boulevard  
Suite 1600  
Encino, CA 91436  
800.887.6989  
tel 818.839.2333  
fax 818.986.9698

**Via Facsimile**

Honorable Naomi Reice Buchwald  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

Re: *In re LIBOR-Based Financial Instruments Antitrust Litigation*,  
Case No. 11-MD-2262 -NRB

*Payne et al. v. Bank of America et al.*,  
Case No. 1:13-cv-00598-NRB

Dear Judge Buchwald:

We are counsel for the Plaintiffs Carl A. Payne and Kenneth Coker in the above-captioned matter. Plaintiffs assert claims individually and on behalf of a putative class of homeowners who obtained LIBOR-based adjustable rate mortgage home loans during the relevant period. As a result of this Court's stay order, none of the Defendants have filed a response to our original complaint.

We are prepared to file a First Amended Complaint in the above-referenced action (the "Homeowner Action") consistent with this Court's March 29, 2013 ruling on the motions to dismiss filed in other cases. The Court's March 29, 2013 ruling did not address any of the claims raised in the original Complaint filed by Plaintiffs Payne and Coker except for their cause of action under the RICO statutes. Plaintiffs' First Amended Complaint will eliminate that claim and will allege claims for violation of California's Unfair Competition Law (Cal. Bus. & Prof. Code §§17200 *et seq.*), fraud, breach of contract and breach of the covenant of good faith and fair dealing arising from the alleged suppression of USD LIBOR during the relevant period.

We respectfully request this Court to lift the stay of the Homeowner Action so that (1) Plaintiffs Payne and Coker may file their First Amended Complaint and (2) this Court may rule on Plaintiffs' pending application for establishment of a separate putative class group and for appointment of interim class counsel for such group. In addition, we request this Court to set a scheduling conference and to direct the parties to work cooperatively to draft a proposed Case Management Plan that will help this Court manage the determination of these cases.

July 26, 2013



Page 2

As this Court was previously informed, the proposed Homeowner Class in this action is distinct from the existing class groups that were established by the Court since it includes only claims brought on behalf of U.S. residents who obtained LIBOR-based adjustable rate mortgage home loans, which originated during the period March 2007 and March 2011. None of the existing four class groups established in this MDL protect or represent the interests of the proposed Homeowner Class. In fact, of the existing class groups established by this Court, none concerns individual homeowners who obtained a U.S. Dollar LIBOR-based adjustable rate home loan.

We thank the Court in advance for its attention to this important matter and, of course, are available at the Court's convenience to address any questions or concerns.

Sincerely,

**Baron & Budd, P.C.**

By: /s/ Daniel Alberstone

Daniel Alberstone

[dalberstone@baronbudd.com](mailto:dalberstone@baronbudd.com)

Roland Tellis

[rtellis@baronbudd.com](mailto:rtellis@baronbudd.com)

Peter F. Smith

[psmith@baronbudd.com](mailto:psmith@baronbudd.com)

Mark Pifko

[mpifko@baronbudd.com](mailto:mpifko@baronbudd.com)

15910 Ventura Boulevard, Suite 1600

Encino, California 91436

Telephone: 818-839-2333

Facsimile: 818-986-9698

*Attorneys for Carl A. Payne, Kenneth Coker,  
and the putative Homeowner Class*

cc: All counsel of record (via email)